

in the united states District Court
MIDDLE DISTRICT OF PENNSYLVANIA

REGINALD A. FALICE®
PETITIONER
(TAXPAYER)

V.

united states of America
GRAHAM MULLEN
ROBERT CONRAD
THOMAS WALKER
CLAIRE RAUSCHER
JEAN LAWSON
(Joint/Severe)
RESPONDENT

13-513

--> DECLARATORY JUDGMENT

PRESENTED TO ESTABLISH THE RIGHTS AND
OTHER LEGAL RELATIONS OF THE PARTIES
WITHOUT PROVIDING FOR OR ORDERING ENFORCEMENT

**FILED
SCRANTON**

FEB 28 2013

PER TS
DEPUTY CLERK

c/o Reginald-A.:Falice®, SPC
Box 3000
White Deer, PA 17887

Affidavit in Support
of
Declaratory Judgment

I, REGINALD-ANTHONY FALICE® (Declarant, Taxpayer) depose, assert, affirm and state all the foregoing declarations as being the truth and nothing but the truth throughout four corners of [N]ow document:

- that facts of this pleading are true and correct;
- that facts of this pleading did occur (i.e. happened);
- that facts of this pleading demonstrate violations of law recognized by the everyday citizen (i.e. public).

The facts of this pleading are clear trespass of :

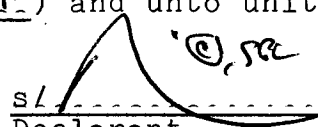
-) Ten Commandments of God (III) (at Ninth Commandment)
-) Article 1 § 7 cls 1, 2, 3; Article 1 § 8 cls 1, 4, 14, 17, 18; Article II and Article III on the u.s. Constitution
-) including Public Policy (Traditions/Customs);

whereas, failure of RESPONDENTS to specifically perform their duty to uphold the u.s. Constitution, as sworn, represents treason and subjects violator(s) to civil penalties for impairing the obligations of [c]ontract(s), and warring against u.s. Constitution.

Material, as presented represent "flagrant," and "glaring," ethical misconduct by Executive and Judicial Branches of Government.

Because the government's tampering with the administration of justice in this case involves far more than just injury to Petitioner's interest, herein, the tampering effects wrongs against the institutions set up to protect and safeguard the Public-at-large. Thus, a reason exist to have relations between the parties spelled out in a fashion which makes economic sense.

Respectfully submitted this 25th day of February, 2013; under penalty of perjury unto God (III) and unto united states.

s/ 
Declarant

2/25/13
Date

JURISDICTION

1. This court has jurisdiction via titles 28 usC §§§ 1331, 1343 and 2201; to include FRCvP 3, 8 and 57.

PARTIES

2. PETITIONER, REGINALD ANTHONY FALICE®, IS AT BOX 3000, WHITE DEER, PA 17887.

RESPONDENTS, GRAHAM MULLEN, et als are at united states District Court; Western District of North Carolina, 401 W. Trade St., Charlotte, NC 28202.

PRELIMINARY STATEMENT

3. Petitioner (Taxpayer), is not an attorney, seeking all that liberal treatment as provided by FRCvP 8 to obtain a Declaratory Judgment; from any court of the united states, where upon filing of an appropriate pleading may declare rights and other legal relations, hereto:

- 1) for the united states of America through its agents rewriting united states Codes
- 2) for the united states of America through its agents legislating united states Codes, while at a court,
- 3) for the united states of America through its agents obstructing justice, and
- 4) for the united states of America through its agents tampering with evidence, plus, subscribing to false testimony

during a judicial process; violates protected property interest belonging to PETITIONER.

4. So. PETITIONER's "Federal Question" ask 'Whether it is permissible for the Judicial and Executive Branches of Government to legislate law, under the u.s. Constitution?'

"Federal Question," is inclusive of all principle components which make legislative acts and functions possible: with this; the power to make laws and to alter them; a legislative body's exclusive authority to make, amend and repeal laws.

If courts are permitted to legislate a law(s), during court proceedings; then that new law(s) would change the scope on meeting altogether.

Clearly. It would mean that the District Court's sentencing determination would make use of facts not charged in the indictment and not found by the jury. Citing *Apprendi v. New Jersey*, 530 u.s. 466, 147 L.Ed.2d 435, 120 S.Ct. 2348 (2000).

Circuits, all agree on this wise: The rulemaking power granted to an administrative agency charged with the administration of a federal statute is not the power to make law. Rather, it is the power to adopt regulations to carry into effect the will of Congress as expressed by the statute.

Note. "A constructive amendment is a fatal variance because the indictment is altered 'to change the elements of the offense charged, such that the defendant is actually convicted of a crime other than that charged in the indictment.'" u.s. v. *Randall*, 171 F.3d 195, 203 (4th Cir. 1999) (quoting u.s. v. *Schnabel*, 939 F.2d 197, 203 (4th Cir. 1991)). A constructive amendment "is error per se, and must be corrected on appeal even when the defendant did not preserve the issue by objection." *Id.*

Rewritting statute is beyond courts purview. Courts can not intrude on legislative domain, by writing/rewriting statute.

5. Facts, allegations and documents will show that Respondent (i.e. those in name), subject -- in a judicial proceeding or in a course of justice, wilfully and corruptly -
 - 1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gave false testimony material to issue or matter of inquiry; or
 - 2) in any declaration, certificate, verification or statement under penalty of perjury as permitted under § 1746 of title 28, USC subscribes any false statement material to issue or matter of inquiry; is guilty of perjury and shall be punished, as this court may direct. However, in light of pleading; I am merely seeking a declaration as to what is the order of court, for deciding cases of controversy. For example; can a matter be solved in court where the rule, by requirement of the judge is that 'he' is allowed to perjure the event at his choice?

FACT

6. Whereas, on 7/12/1999, approximately 1:30pm., during a criminal trial process, at United States District Court for the Western District of North Carolina, Charlotte Division, 401 W. Trade St., Charlotte, NC 28202; Justice Graham C. Mullen did proceed attorneys, during Judicial Pleading No. 3:98CR244 in acts to legislate law or rewrite an existing law in the course of events.
7. At this time, GRAHAM, recognized the loss of jurisdiction to hear (i.e. decide) matter in his court.
8. Because ROBERT CONRAD, III, (unregistered, United States Attorney, who did not have oath on file, in Charlotte Division Court, nor at Department of Justice, until after trial No. 3:98CR244 was over) asserted and notified the court

(i.e. GRAHAM MULLEN) that the prongs to satisfy the statute for [I]nterstate violation was not met by the evidence. Id. Page 402, Line 16 of Exhibit A.

9. By this time, there is a complete loss of jurisdiction for GRAHAM MULLEN, to decide pleading in his court. So, matter should hve ended or been dismissed.
10. Therefore, to cure this defect in [standing], GRAHAM MULLEN issues an instruction to write/rewrite legislation so he can give a decision on evidence crafted by himself! Id. Page 402, Line 18, through Page 403, Line 5.
11. The others had no choice, seemingly. GRAHAM's newly invented statute was the cure for the lawyers' jurisdictional defect.
12. GRAHAM's unregistered, unregulated, unconstitutional, non-Congressional enactment was given at trial as the argument (same as controversy) for the attorneys to controvert, in front of him and the public. This is the same as hoax or sham. See Page 403, Line 2. GRAHAM, tells the attorneys ". . . that (meaning his statute) gives you the argument."
13. Then, at Page 403, Line 6; GRAHAM, avers, "So that's how I'm going to deal with that!"
14. At this point; court is proceeding in a manner not recognized by the constitution, Federal Codes, or Federal Rules or Federal Regulations. The prejudice and biasness is very imminent. No need to express all detail of injury/harm, hereto, property and property interest. Injury/harm, exist! No. 3:98CR244, is still ongoing; therefore, its effect are still, ongoing.

15. Now. As identified by the record (No. 3:98CR244); GRAHAM has to cure defect of missing evidence, by coming up with at least one of the stipulations required by the Interstate Statute, that of "harassment." Here. He creates the event to evince an act of harassment, to allegedly imply, state or witness to fact that then PETITIONER violated a non existing court order, to visit his son. GRAHAM, created all this evidence, including the statute for his event; then, gave his decision on his own devices. Id. Obstruction of Justice and miscarriage of Justice.
16. Furthermore, challenged prohibitions of herein enumerated acts are ripe for review and access to courts under Declaratory Judgment Act, as permitted on Equal Protection and Commerce Clause grounds.
17. Where Judiciary, creates its own legislation, then, is allowed to issue a decision on that legislation, evidence, declares said violations an encroachment on the due process interest belonging to PETITIONER. By the evidence presented GRAHAM MULLEN had no jurisdiction to rule on No. 3:98CR244.
18. GRAHAM, admitted their wrong doing on the record. See at Page 405, Line 3, through line 10. In a summary statement outlining the "sham-proceedings," as echoed by Assistant united states Attorney, THOMAS WALKER; GRAHAM speaks to facts of what they did with legislative events during pleading and its residual effects surrounding trial matter.
19. At Line 10, GRAHAM, asserts; "I hate to do that lie every time, but it's required." This is GRAHAM's own admission, as to what was going on, and, what is still existing today.
20. GRAHAM, even speaks for the violation on the statutes

they amended, changed, wrote or rewrote. Just one of the occurrences appear of record, at Page 405, Line 17.

This occurrence is evident PETITIONER, was not prosecuted on indictment via Grand Jury, which caused meeting.

21. Declaratory Judgment, is entered to establish interests and other legal relations of the parties without providing for or ordering enforcement. Par for considerations are the numerous cases which spell out the relation of litigants in any suit. Pertaining to judge/referee:

- Rewriting statute is not committed to judiciary
939 F.2d 191, u.s. v. Raynor, (4th Cir. 2/8/91)
- Courts can not intrude on legislative domain by rewriting statute. 643 F.Supp.2d 758, Ostergen v. McDonnell, (E.d. VA. 2009)
- "Starting point in any case involving the interpretation of a statute is the statute itself. When, as here, the language of the statute is clear, the court must enforce it according to its terms, for rewriting the statute is not the province of the judiciary." Quoted from 1998 u.s.DIST.LEXIS 15491, Ramdass v. Angelone, (2/26/98, 4th Dist.)

ROBERT CONRAD, III, helped the judge to gloss over whose province it is to legislate law. See Page 405, Line 11. He misappropriately recognized policy on statutes. That the meaning of a statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, the sole function of the courts is to enforce it according to terms. **Lying**, can not be enforced to terms, anywhere! Especially, not in a court.

- Rewriting statute is ill-advised, 2012 u.s.DIST.LEXIS 18445

- Changes in statute must come from Congress, not the court, 2009 u.s.DIST.LEXIS 131302

Here relations, involving referee/judge are well defined and established per policy.

- To assure equal treatment under the law the court must interpret the law as writtn, particularly in matters of taxation. In No. 3:98CR244, the court did not do this (such as perform as expected).
- 120 Led.2d 379, 505 u.s. 469, 475, 112 S.Ct. 2589, (1992) It is Congress that has the authority to change statute, not courts.
- Court must interpret the law in accordance with Congress' intent. Congress is the ultimate touchstone.
- Court must interpret the law in accordance with Congress' intent. . . . Congress is the ultimate touchstone. In 742 F.Supp.2d 827, Moon v. BMW Techs., Inc, (9/27/10 4th Dist.).

22. Clearly, via other circuits, including the 4th; judges/referees, are not cloaked with authority to legislate law. The corporate cloak has been used to perpetuate fraud.
23. GRAHAM's interventions were not by chance, but, rather by design to be on the side of the government. GRAHAM's actions were so prejudicial that any opportunity for a fair and impartial trial was completely denied.
24. GRAHAM's acts/actions/statements/words can not be viewed as comments. Evidence against him is overwhelming.
25. Jurisprudence, does not respect "following orders" as a defense to immunize government agents from civil rights

liability. Especially, where agents for government were able to discern, suchas, identify 'civil rights' violations they knew their actions violated PETITIONER's constitutional rights and should not be allowed to hide behind the [cloak] of institutional loyalty.

26. RESPONDENTS' actions, herein, are not entitled to absolute immunity nor qualified immunity as a matter of law: For their acts were not performances of functions related to the judicial process. These are extraordinary exceptions which justifies disregarding the corporate entity and piercing the veil.
27. GRAHAM's actions are personal epithets. This makes him personally liable for using the corporation to perpetrate fraud or a crime, to commit an injustice, or to gain an unfair advantage. See where he asserts the pronoun "I." GRAHAM, then, goes on to lie (perjure) to coverup his and the other's misdeeds.
28. In summary. PETITIONER's request for Declaratory Judgment is coherent and does assert factual allegations which give rise to a valid basis for relief, which this court has the authority to grant. For what is requested, the court ought not refuse order of judgment.

Herein, a 'Federal Question,' has been presented.

FACTUAL ELEMENTS

29. By pleading; PETITIONER, acknowledge the Declaratory Judgment Act allows him to obtain a federal court declaration of his rights under federal statute. Whereas:
 - (1) Justice MULLEN, during trial, supra, "u.s. v. FALICE®" induced (i.e. entered) false testimony. His obstruction

to intervene goes beyond, the making of any comment or the scope of his duty as referee.

Giving false testimony, violated sworn oath:

- (a) that the accused took an oath or affirmation in a certain judicial proceeding or course of justice;
 - (b) that oath or affirmation was administered to accused in a matter in which an oath or affirmation was required or authorized by law;
 - (c) that oath or affirmation was administered by a person having authority to do so;
 - (d) that upon oath or affirmation that accused wilfully gave certain testimony;
 - (e) that testimony was material
 - it gave Prosecution their argument
 - it was not law recognized by Congress
 - it should have been verified
 - it should have been put before a Grand Jury
 - and the same has caused or allowed the exaction of funds from RAFALICE®, unjustly. Scheme to use perjury for purpose of tax, violates PETITIONER's constitutional interest;
 - (f) that testimony was false
 - by the record, Judge MULLEN admits Perjury[]
- and
- (g) that accused did not then believe testimony to be true; as he asserts on the record.

(2) Justice MULLEN, during trial supra "u.s. v. FALICE®" subscribed false statements.

Subscribing false statement did damage PETITIONER's PROPERTY interest (i.e. trial process); whereto "false" statement was not included on [I]ndictment Contract:

- (a) that accused subscribed a certain statement in

- a judicial proceeding or course of justice;
- (b) that in declaration, certification, verification, or statement under penalty of perjury accused declared, certified, verified, or stated truth of that certain statement;
- (c) that accused wilfully subscribed statement;
 - adding that he also took [j]udicial notice of false statement - Id. trial record
- (d) that statement was material;
- (e) that statement was false;
 - by the record, Judge MULLEN admits deceptive practice, for public affairs
- and
- (f) that accused did not then believe statement to be true.

CLAIM

30. Tax statutes must be construed against the government and in favor of TAXPAYER. When terms of a statute(s) are clear its language is conclusive and courts are not empowered to extend its meaning(s) from/for unenacted legislative intent(s).

"26 F.Supp.2d 789, Armstrong v. School Dist. Five, 10/15/98"

A public entity cannot materially alter, or add to law in any fashion which circumvents legislation.

Accordingly, any regulation, order or policies which add to or alter statutes are void.

31. Property Interest via due process:

Contractual provisions "Good Faith" Clause and "Due Process"

Clause provide that [No Person], includes PETITIONER; shall be deprived of life, liberty or property without due process of law.

Herewithin, united states of America through agents shall declare, attest and assert that deception of perjury was wrong and violative of public policy; which allows PETITIONER lawful right to reclaim all interest in property, free from any encumbrances from RESPONDENTS.

32. Impartial Judge

PETITIONER, LIKE OTHERS EXPECT COLD NEUTRALITY FROM TRIAL JUDGE. When a trial judge is caught lying, his rulings whatever they may be are void, for lack of impartiality.

Notwithstanding, clean hands doctrine; an under-handed judge is about as low, as the judicial system can go to obtain justice.

Therefore Petitioner can obtain Declaratory Judgment stating that Perjury is wrong and should never be used as a rule, practice, procedure or process for judicial proceeding; and, allows Petitioner's claim in appropriate relief, for property damages as stated.

RELIEF

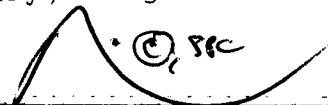
33. Accused did give false testimony wilfully and did not believe it to be true, which damaged PETITIONER's property and property interest.

Herein, PETITIONER's request shall be granted, approved for Declaratory judgment as previously described.

Petitioner shall receive \$9,000.00¢ award from the united states of America for damages caused by Agents which resulted in personal injury and property damages.

All statements within the four corners of Now document are submitted under penalty of perjury unto God (יהוה) and unto united states.

Respectfully submitted this 25th day of Feburary, 2013.

s/ 

PETITIONER (TAXPAYER)

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(1) THE COURT: Why are they not entitled to ask me to
 (2) take judicial notice of what the interstate law is?
 (3) MR. WALKER: We don't know that the defendant
 (4) relied on that or that that was relevant in the defendant's
 (5) thinking.

(6) THE COURT: It doesn't matter whether he even knew
 (7) that or not. And you have a strong implication from your
 (8) evidence that his intention was to come up here and harass
 (9) her, at the least.

(10) MR. WALKER: Uh-huh.

(11) THE COURT: I mean, at the very least, that's the
 (12) strong implication of your evidence. And if on the other
 (13) hand he had a right to see his child, then that wouldn't be
 (14) harassing her, to come try to see the child, and that's all
 (15) I'm trying to get at.

(16) MR. CONRAD: In and of itself, it's not evidence of
 (17) harassment.

(18) THE COURT: Because he had the right to do it. If
 (19) he didn't have the right to do it, it would be harassment.

(20) I've got a court order saying, stay the heck away; no, I'm
 (21) coming anyway. That's harassment, boom.

(22) That's what I'm going to do. I'm going to take
 (23) judicial notice of that. Under the interstate - write it

(24) out for me, whatever the name of the statute is, Interstate
 (25) Act on child custody prior to the issuance of the custody

Page 403

(1) order, Mr. Falice had the right to come up and try to see his
 (2) son. I'm not going to say that's not harassment, nothing
 (3) other than that. Boom, that gives you the argument. I think
 (4) you have an argument from the evidence about the purpose of
 (5) all of that other stuff that was being written without this.

(6) So that's how I'm going to deal with that. Let's
 (7) start talking about - and I will do that and you can stand
 (8) up and rest and we will send the jury out for a couple of
 (9) minutes and we will start in with final argument.

(10) Now, does anybody have any notion about how long
 (11) you are going to want to talk today?

(12) MR. CONRAD: Could I inject a personal thought just
 (13) in terms of the Court's discretion? My son is going in for
 (14) jaw surgery tomorrow and I would love to be there when that
 (15) happens, so - but if my job requires me to be here, I will
 (16) be here.

(17) THE COURT: What time is he going in?

(18) MR. CONRAD: In the morning. He is checking into
 (19) the University Hospital.

(20) THE COURT: We were going to be through with the
 (21) charge conference and through with arguments, and I'm happy
 (22) to tell the jury you are absent in the morning because you
 (23) can't be there for further deliberations because your son is
 (24) having surgery and that you have left the government's case
 (25) in the able hands of Mr. Walker.

(1) MR. CONRAD: I only suggest that if you have -

(2) THE COURT: I'm happy to do that, because - you
 (3) want me to tell them today?

(4) MR. CONRAD: No, no, no.

(5) THE COURT: But I would prefer just to move on and
 (6) if you can't be here, you go. I think we are going to be
 (7) done with everything today that needs doing except possibly
 (8) the instructions.

(9) All right, let me start with the ones that I have
 (10) given to you. And as any of the ones that I am proposing to
 (11) give becomes implicated by one of the ones that you have
 (12) requested, let's stop and tell me. The defense has
 (13) mercifully and the government, following the lead of the
 (14) Court, has not numbered its pages.

(15) MR. CONRAD: We sure didn't, sorry.

(16) THE COURT: And I haven't numbered mine, so we will
 (17) go by the headings. Introduction, indictment is only an
 (18) accusation.

(19) MR. CONRAD: The only thing there -

(20) MS. RAUSCHER: You missed a statute number, end of
 (21) the first paragraph should be 2261(B)(1), which -

(22) THE COURT: 2261(B)(1), presumption of innocence.

(23) Reasonable doubt. Now, I know you have requested a

(24) reasonable doubt instruction, and you know what the Fourth
 (25) Circuit says.

Page 405

(1) MS. RAUSCHER: This time, I didn't, I actually
 (2) didn't.

(3) THE COURT: Oh, okay.

(4) Direct and circumstantial evidence, credibility of
 (5) witnesses, uncontradicted testimony, impeachment,
 (6) inconsistent statements or conduct, the defendant is not
 (7) compelled to testify, testimony, the statement defendant made
 (8) to investigating authorities, not on trial for conduct not
 (9) found in the indictment, punishment is the province of the
 (10) Court. I hate to do that lie every time, but it's required.

(11) MR. CONRAD: It's not their province is what you
 (12) are trying to say.

(13) THE COURT: That's right. I'm glad you recognize
 (14) where that lies.

(15) On or about, and read the bill of indictment, Count
 (16) One, Count Two.

(17) All right, now, the statute violated, I'm going to
 (18) take out the penalty section of that. You do not need the
 (19) penalty section. I marked that and answered that question
 (20) no.

(21) Now, the essential elements, these are the ones
 (22) that I - that we have listed and it seems that they are
 (23) similar to the government's. I have taken out the notion
 (24) that they were or had been intimate partners, because the
 (25) statute doesn't say anything about had been, and the element

CERTIFICATE OF SERVICE

I certify that on 2/25/13, I mailed a copy (2)
of this pleading with all attachments:

- Affidavit in Support of Declaratory Judgment
- Exhibit A
- Cover Page

to Clerk of Court, in Middle District of Pennsylvania. Furthermore;
asked Clerk to forward a copy to GRAHAM MULLEN, at Charlotte
Division Court in Charlotte, NC 28202; after making them a
copy of the same.

Postage, prepaid.


s/ TAXPAYER, REGINALD A. FALICE®

REGINALD-A.: FALICE
13754-058
USP ALLENWOOD
P.O. Box 3000
WHITE DEER PA 17887

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13754-058

Mary E D Andrea Clerk Of Court
' United States District Court'
225 North Washington Ave.
Scranton, PA 18501
United States